

United States District Court  
Eastern District of California

Larry Giraldes, Jr.,

Plaintiff,

vs.

T. Prebula, et al.,

Defendants.

No. Civ. S 01-2110 LKK PAN P

Order

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Defendants seek summary judgment. Plaintiff seeks an order denying the motion or continuing the proceedings thereon pursuant to Fed. R. Civ. P. 56(f).

A court may deny a motion for summary judgment or continue proceedings thereon to permit discovery when an opposing party shows by affidavit that it cannot present facts essential to justify the party's opposition. Fed. R. Civ. P. 56(f). The party seeking discovery must identify the information sought and show how it would affect summary judgment. Mackey v. Pioneer

1 Nat'l Bank, 876 F.2d 520, 523 (9th Cir. 1989); Garrett v. City  
2 and County of San Francisco, 815 F.2d 1515, 1518 (9th Cir. 1987).

3 Plaintiff alleges defendant Sauhkla, upon instruction from  
4 defendants Prebula and Gavia, drafted a memorandum authorizing  
5 plaintiff's transfer from California Medical Facility (CMF) to  
6 High Desert State Prison (HDSP) and Dr. Andreasen approved the  
7 transfer knowing HDSP could not provide adequate medical care for  
8 his severe digestive problems, Hepatitis C and knee problems and  
9 that within days of the September 28, 2001, transfer plaintiff  
10 began to suffer vomiting and intestinal bleeding but was denied  
11 medical attention upon the ground the necessary care was  
12 unavailable at HDSP. Defendants move for summary judgment upon  
13 the ground there is no genuine dispute about whether they were  
14 deliberately indifferent.

15 Plaintiff seeks his medical records. But the question  
16 before the court is not the kind or quality of care he has  
17 received but whether defendants knew plaintiff would receive  
18 inadequate care at HDSP and there is no reason to believe  
19 plaintiff's medical records at CMF would enlighten defendant's  
20 knowledge about the quality of care plaintiff would receive after  
21 transfer tp HDSP.

22 Accordingly, plaintiff's request is denied.

23 So ordered.

24 Dated: January 5, 2006.

25 /s/ Peter A. Nowinski

26 PETER A. NOWINSKI  
Magistrate Judge